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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
WENDELL, MARK R	

ART UNIT	PAPER NUMBER
3635	

NOTIFICATION DATE	DELIVERY MODE
07/07/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Office Action Summary	Application No.	Applicant(s)	
	10/562,733	IRIGOYEN, MARC-EDOUARD	
	Examiner	Art Unit	
	MARK R. WENDELL	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 May 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) _____ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *11-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-14, 16-17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson et al. (US 5337531). Regarding claim 11, Thompson illustrates in Figures 1, 2 and 4 a beam attachment system (20) comprising:

- Two posts (92 of Figure 4, the examiner notes that it would be inherent that a second post similar to the one illustrated in Figure 4 would be provided at the other end);
- A beam (12);
- At least one beam tie (28) in which:
    - The posts (92) are stressed by the beam (12) to push them apart and stressed by the beam tie (28) to pull them together (The examiner notes that the posts would be inherently stressed by the beam to push them apart and the beam ties would inherently be provided to keep them from falling over by applying an equal and opposite force to pull them together. The examiner notes that any horizontal beam being placed between and in contact with two vertical beams exerts an outward, repelling force or stress to the

vertical beams thus pushing them apart. The mere fact that there is a horizontal beam between two vertical beams within the reference justifies the examiners inherency grounds.);

- The beam being connected to the beam tie (see Figure 4); and
- The beam and the beam tie being mounted sliding relative to each other according to a finite sliding portion (44) (Also, the examiner notes to see columns 3 and 4 for further discussion).

Regarding claim 12, Thompson illustrates in Figure 2 sleeves (nuts, 50) mounted on the beam tie (28) thus delimiting the finite sliding portion (44). The examiner also notes that column 4, lines 1-10 note that the nuts are meant to keep tube 44 from sliding around and they also allow for sliding adjustment of the finite sliding portion.

Regarding claim 13, Thompson illustrates in Figure 4 the beam comprising lateral parts between which the beam tie passage is formed. The examiner notes that in Figure 4 it is illustrated that the beam tie passes through the beam to be attached, via the bolt, to post (92).

Regarding claim 14, Thompson illustrates in Figure 4 the beam being supported by the beam tie. The examiner further notes that in column 3, lines 20-55 the prior art teaches that beam (12) is supported by a major support structure (20) which comprising columns (22) and the beam tie (28).

Regarding claim 16, Thompson illustrates in Figure 4 the post being connected to the beam by means of a connecting rod (bolt, which connects 14, 28, 72 and 92 to one another).

Regarding claim 17, Thompson illustrates in Figure 4 the existence of posts, which are on the edge of the support structure.

Regarding claim 19, Thompson illustrates in Figure 1 each of the beam ties (28) being single beam ties.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al. (US 5337531). It is described above what is disclosed by Thompson; however the reference does not distinctly disclose the exact material of the beam (12). The examiner notes that the prior art does discuss the entire structure being a truss. It is well known in the building construction art that trusses can be made of steel or wood

(see the other publications section of the Thompson prior art). It would have been obvious to one having ordinary skill in the art at the time of invention to make the beam of steel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice (In re Leshin, 125 USPQ 416).

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al. (US 5337531) in view of Gleeson (US 4353190). It is described above what is disclosed by Thompson; however the reference does not distinctly disclose the beam being several longitudinal segments. Gleeson illustrates in Figures 2-7 the upper truss beam being several longitudinal segments. It would have been obvious to one having ordinary skill in the art at the time of invention to have the upper beam (12) of Thompson be several segments rather than one continuous beam and attach the segments together in the center at the center beam (22) in order to decrease the weight of each beam structure which would make for easier installation. The examiner notes that the Thompson prior art states in column 7 that various modifications and variations may be made in the trusses without departing from the scope, which happens to be to provide a lightweight truss structure.

Response to Arguments

Applicant's arguments, see Arguments, filed 5/13/2009, with respect to the rejection(s) of claim(s) 11-19 under 103 have been fully considered and are not persuasive. The sole argument is stated below:

> *"Thompson fails to disclose a beam attachment system where the beam and the beam tie are mounted sliding relative to each other according to a finite sliding portion, as claim 11 requires. This feature of the invention makes it possible to reduce the potential energy connected to the load stress. See Present Application at ¶ 43. The Examiner suggests that Thompson's disclosure of tubes 44 teaches this feature of claim 11. It does not. Instead, the tubes 44 merely allow the camber of the upper chord member 12 to be adjusted; they do not allow the tube 44 to slide relative to the tension members 28. Indeed, when mounted, no sliding would occur at all because the nuts 50, 51 would prevent the tube 44 from sliding relative to the tension member 28. Accordingly, Thompson fails to disclose each and every element of claim 11."*

The examiner disagrees with this argument. Regarding the statement that the tubes merely allow the camber of the chord member to be adjusted and does not slide relative to the tension member, the applicant is pointed to column 3, line 65-column 4, line10. Thompson states that "tubes 44 are welded to plate 48 in position **to slidably receive second ends of tension member 28**." This infers that the tubes (44) and the tension member (28) are slidable relative to one another. It is true that once the nuts (50 and 51) are put into place the tube will not slide; however one can easily adjust (as states in

column 4, lines 5-10) the nuts to permit the tube to slide and adjust the tension within item 28 relative to the post 12 (see column 4, lines 10-15).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK R. WENDELL whose telephone number is (571)270-3245. The examiner can normally be reached on Mon-Fri, 7:30AM-5PM, Alt. Fri off, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./
Supervisory Patent Examiner, Art Unit 3635

/M. R. W./
Examiner, Art Unit 3635
June 23, 2009